

VADS AND EVADS: SHALL OR MAY?

FOR COUNTIES AND CITIES THAT CHOOSE TO ADOPT A VAD OR EVAD
ORDINANCE, WHAT IS REQUIRED BY STATUTE AND WHAT IS DISCRETIONARY

THE SHALL'S

- Definition of Qualifying Farmland
 - In order for farmland to qualify for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district, it must be real property that:
 - Is engaged in agriculture as that word is defined in G.S. 106-581.1.
 - Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodable land; and

THE SHALL'S

- Is the subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits nonfarm use or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable county and municipal zoning and subdivision regulations.

THE SHALL'S

- Establishment of Districts
 - An ordinance shall provide for the **establishment of voluntary agricultural districts** consisting initially of at least the number of contiguous acres of agricultural land, and forestland or horticultural land that is part of a qualifying farm or the number of qualifying farms deemed appropriate by the governing board of the county or city adopting the ordinance;

THE SHALL'S

- Formation of Districts
 - An ordinance shall provide for the **formation of such districts** upon the execution by the owners of the requisite acreage of an **agreement** to sustain agriculture in the district;

THE SHALL'S

- Agreement Approval
 - An ordinance shall provide that the form of this agreement **must be reviewed and approved by an agricultural advisory board** or some other county board or official;

THE SHALL'S

- Representation on VAD board
 - And ordinance shall provide that **each such district have a representative** on the agricultural advisory board

THE SHALL'S

- Agricultural Advisory Board
 - An ordinance shall provide for the **establishment of an agricultural advisory board**, organized and appointed as the county or city that adopted the ordinance shall deem appropriate.

THE SHALL'S

- Record Notice of Proximity to Farmland
 - All counties shall require that **land records include some form of notice** reasonably calculated to alert a person **researching the title** of a particular tract that such tract is located within **one-half mile** of a poultry, swine, or dairy qualifying farm or **within 600 feet** of any other qualifying farm or within **one-half mile** of a voluntary agricultural district

THE SHALL'S

- The Commissioner's Office

- The county or city shall record the ordinance with the Commissioner's office after adoption.
- The county or city shall submit to the Commissioner at least once a year, a written report including the status, progress and activities of its farmland preservation program under its VAD or EVAD.

THE SHALL'S

- Conservation Agreements for EVADs
 - A **conservation agreement** entered into between a county or city and a landowner pursuant to G.S. 106-743.1(a)(2) **shall be irrevocable for a period of at least 10 years** from the date the agreement is executed. At the end of its term, a conservation agreement **shall automatically renew for a term of three years**, unless notice of termination is given in a timely manner by either party as prescribed in the ordinance establishing the enhanced voluntary agricultural district. The benefits set forth in this Part shall be available to the farmland that is the subject of the conservation agreement for the duration of the conservation agreement.

THE MAY'S

- Advisory Board Powers and Duties

- The county or city that adopted the ordinance **may confer** upon this advisory board authority to:
 - Review and make recommendations concerning the establishment and modification of agricultural districts;
 - Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption for VADs and EVADs;
 - Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;

THE MAY'S

- Advisory Board Powers and Duties continued
 - Advise the governing board of the county or city that adopted the ordinance on projects, programs, or issues affecting the agricultural economy or way of life within the county;
 - Perform other related tasks or duties assigned by the governing board of the county or city that adopted the ordinance.

THE MAY'S

- Public Hearing on Condemnation of Farmland
 - A VAD or EVAD ordinance may provide that no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland until such agency has requested the local agricultural advisory board to hold a public hearing on the proposed condemnation.

THE MAY'S

- Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision-making body of the agency proposing acquisition.
- The board designated to hold the hearing shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.
- The agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations.

THE MAY'S

- Waiver of Water and Sewer Assessments
 - A county or a city may provide by ordinance that its water and sewer assessments be held in abeyance, with or without interest, for farms, whether inside or outside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
 - The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
 - Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

THE MAY'S

- Waiver of Water and Sewer Assessments continued
 - If an ordinance is adopted under this section, then the assessment procedures shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.
 - Nothing in this section is intended to diminish the authority of counties or cities to hold assessments in abeyance under G.S. 153A-201 or G.S. 160A-237.